

FREQUENTLY ASKED QUESTIONS

Report of Settlement of Arbitration Award

Why did the Landscape Architects Technical Committee (LATC) change its statute?

The LATC amended its statute to be consistent with the California Architects Board (Board). The Board changed its statute due to confusion within the profession regarding the reporting threshold. To clarify the record on the statute, the Board sought an official Attorney General opinion. The Attorney General's Office concurred with the Board's interpretation. Nevertheless, to make the statute more workable, the Board amended its Act using language that the Engineers Board had just incorporated into its Act. The language was enacted and is now in effect.

So why is the new language better?

Settlements that meet **all of** the following conditions are reportable:

1. Precipitated by formal legal action (filing of a civil suit or administrative action)
2. Over \$5,000
3. Involve allegations of fraud, deceit, negligence, incompetence, or recklessness by the licensee in the practice of landscape architecture

As such, settlements that are amicable and part of the normal course of business, e.g., change orders, are typically not reportable to the Board. Previously all settlements were reportable.

Why was the dollar amount not increased? \$5,000 is nothing these days!

The \$5,000 figure was included in the original enactment of the statute from the 1970's. That figure was deemed appropriate because instances involving amounts under \$5,000 can be resolved in small claims court. Increasing the amount, however, would not be viewed as protecting consumers.

Doesn't this allow attorneys to access these reports and use them as evidence against us in other lawsuits?

No, because reports of settlements to the Board are considered investigative reports that are not subject to the Public Records Act. If, however, the Board's review of the report suggests that there may be potential wrongdoing on the part of the licensee, the Board opens a formal investigation and the culmination of such investigation, i.e., formal disciplinary action, is subject to the Public Records Act, and the Board's Consumer Information System.

Doesn't this statute subject landscape architects to double jeopardy?

No, because civil matters are resolved in the civil area, whereas the Board's authority is based upon administrative law. Just because a licensee resolves a civil dispute doesn't mean he or she does not have to address the issue with the Board. The matter needs to be addressed in both venues in order to ensure that consumers are protected.

What if the Landscape Architect as the prime consultant, is named in a lawsuit due to problems with one of the sub consultant's work, and is forced to settle to avoid the exorbitant cost of litigation?

All settlements that meet the requirements of the Act must be reported to the LATC. Even when the dispute settles and the other conditions are met, the settlement must still be reported.

What do I report?

The statute specifies that the following information be reported:

1. Title of Matter
2. Court or Agency Name
3. Docket Number
4. Claim on File Number
5. Date on Which Reportable Event Occurred

The LATC has a form that can be used to report settlements. It is posted on its Web site at www.latc.ca.gov.

Questions? Call LATC at (916) 575-7230